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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/842,833	04/27/2001	James J. Barry	12013/58401	8482
26646	7590	07/27/2007	EXAMINER	
KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			STEWART, ALVIN J	
			ART UNIT	PAPER NUMBER
			3738	
			MAIL DATE	DELIVERY MODE
			07/27/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

ED

<b>Office Action Summary</b>	<b>Application No.</b> 09/842,833	<b>Applicant(s)</b> BARRY ET AL.	
	<b>Examiner</b> Alvin J. Stewart	<b>Art Unit</b> 3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 5-11 and 24-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 5-11 and 24-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 04/27/07 have been fully considered but they are not persuasive.

The new limitations entered in independent claim 1 do not bplace the case in condition for allowance. The 103(a) rejection by Savin et al in view of Michael et al still read on the new limitations entered by the Applicants' representative.

Nowhere in the prior art discloses that the implant adhesion-resistant treatment is capable of removing the implant coating from the implant surface. However, it is an inherent characteristic of coated implants of being stripped from the coating by the blood vessel fluid of the patients during a period of time in order to treat a specific region instead of being stripped off by an adhesion-resistant treatment. It will not be efficient for a stent to be stripped off the coating by the implant adhesion-resistant treatment. Finally, col. 4, lines 55-57 clearly disclose that the lubricating solution is between the balloon and the sleeves, therefore, the lubricating solution is between the balloon and the stent (see Fig. 1).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 7, 11 and 24-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Savin et al US Patent 4,950,227 in view of Michal et al US Patent 6,287,285 B1.

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Savin et al discloses a coated implant delivery system comprising an implant delivery device (10) with a first end (14), a second end (proximal portion of catheter), an inner lumen (lumen within the balloon used to expand balloon) and a stent (16). The first end has a releasable implant retention region (14), the region has an accessible surface (surface of the balloon), the accessible surface has a first implant adhesion-resistant coating (see col. 4, lines 55-57). The releasable implant retention region has two coaxial sleeves (18 & 20).

Regarding claims 3 & 11, see Fig. 2.

However, Savin et al, does not disclose a stent having a first implant coating.

Michal et al teaches a stent having a coating for the purpose of delivering therapeutic and pharmaceutical agents to a targeted area (see Figs. 10-12; and col. 12, lines 23-29; col. 12, lines 59-67; col. 13, lines 1-16; col. 4, lines 10-22).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the stent of the Savin et al reference to add a therapeutic coating of the Michal et al reference in order to deliver therapeutic and pharmaceutical agents to a targeted area to inhibit or prevent restenosis.

Claims 5, 6 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Savin et al US Patent 4,950,227 in view of Michal et al US Patent 6,287,285 B1 and in further view of Wang et al US Patent 5,902,631.

Savin et al as modify by Michal et al disclose the invention substantially as claimed. However, Savin et al as modify by Michal et al do not disclose an exterior of the second end of the implant delivery device treated with a second adhesion-resistant coating, a second adhesion-

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resistant coating on the accessible surface and a non-adhesive coating made of hydrogel, carbowax or PEO.

Wang et al teaches a medical device having a plurality of lubricious coatings for the purpose of having different lubricity gradients along a specific area for the purpose of targeting specific problems, such as, a voiding the so-called "watermelon seed" problem wherein a balloon which is too lubricious shoots forward on inflation (see col. 3, lines 40-60; col. 2, lines 1-10; and col. 1, lines 28-32).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the type of lubricants of the Savin et al reference as modify by the Michal et al reference with the different lubricants and the different coating of the Wang et al reference in order to target specific problems, such as, a voiding the so-called "watermelon seed" problem wherein a balloon which is too lubricious shoots forward on inflation.

Regarding claims 6 & 8-10, see col. 4, lines 39-61.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin J. Stewart whose telephone number is 571-272-4760. The examiner can normally be reached on Monday-Friday 7:00AM-5:30PM(1 Friday B-week off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*A. Stewart*  
ALVIN J. STEWART  
PRIMARY EXAMINER  
Art Unit 3738

July 10, 2007.